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VILLAGE OF ESTERO, FLORIDA

ORDINANCE NO. 2015 - 14

**AN ORDINANCE OF THE COUNCIL OF THE
VILLAGE OF ESTERO, FLORIDA, ADOPTING
CHAPTER 162, FLORIDA STATUTES, PROVIDING
FOR MUNICIPAL CODE ENFORCEMENT;
ESTABLISHING ENFORCEMENT PROCEDURES
AND AUTHORITIES; AMENDING CONFLICTING
PROVISIONS OF CODE; PROVIDING FOR
CODIFICATION; PROVIDING FOR CONFLICT
WITH OTHER ORDINANCES; PROVIDING FOR
SEVERABILITY; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, pursuant to Part I of Chapter 162, Florida Statutes, "The Local Government Code Enforcement Boards Act," the Village Council is authorized, at its option, to create and appoint a Village of Estero Code Enforcement Board, to provide for the enforcement of municipal codes; and

WHEREAS, Part I of Chapter 162, Florida Statutes, also authorizes the appointment of a Special Magistrate to act in conjunction or in lieu of a code enforcement board; and

WHEREAS, Chapter 162, Part II, Florida Statutes, provides for a "Supplemental Code Enforcement Procedure" whereby duly designated Code Enforcement Officers are authorized to issue citations or notices to appear to a person when, based upon personal investigation, the officer has reasonable cause to believe that the person has committed a civil infraction in violation of a duly enacted code or ordinance; and

WHEREAS, Chapter 162, Florida Statutes, does not preclude the Village from combining any of the features of Part I and Part II of Chapter 162, nor does it prohibit the Village from enforcing its codes or ordinances by such other means of enforcement as provided by general law or as may lie within the home rule powers of the Village; and

WHEREAS, the Charter of the Village of Estero, established by Chapter 2014-249, Laws of Florida, provides in Section 11(5) thereto that all applicable ordinances of Lee County contained in the Code of Laws and Ordinances of Lee County, Florida ("Lee County Code") shall, until otherwise affected by the Village Council of the Village of Estero ("Council"), constitute the Code of Laws and Ordinances of the Village of Estero ("Estero Code"); and

WHEREAS, the Lee County Code, now Estero Code, already provides certain code enforcement procedures best suited to the needs of Lee County; and

46 **WHEREAS**, the Council has determined that maintaining the provisions of certain
47 legacy provisions of the Estero Code relating to code enforcement in Lee County no longer
48 serves the public interest and should be revised to best serve the needs to the Village; and
49

50 **WHEREAS**, pursuant to Chapter 166, Florida Statutes, the Council has all powers of
51 self-government not inconsistent with general or special law, including the power and
52 authority to adopt ordinances providing for the public health, safety and welfare of the
53 residents of the Village of Estero.
54

55 **NOW, THEREFORE, BE IT ORDAINED** by the Village Council of the Village of
56 Estero, Florida:
57

58 **Section 1. Recitals.** The above stated recitals are hereby adopted and confirmed as
59 being true, and the same are hereby incorporated as a part of this Ordinance.
60

61 **Section 2. Code Enforcement.**
62

63 Section 1-1. State Law Implemented
64

65 The Village of Estero hereby implements the municipal code enforcement authority
66 provided by Chapter 162, Parts I and II, Florida Statutes, as may be amended from time to
67 time by act of the Legislature. The remainder of this Article is intended to supplement the
68 provisions of Chapter 162 locally.
69

70 Section 1-2. Applicability
71

72 The provisions of this Article shall apply to and be enforced in all incorporated areas
73 of the Village of Estero as the primary method enforcing the Code of Laws and Ordinances
74 of the Village of Estero, Florida including its land development regulations. Nothing
75 contained in this Article shall prohibit the Village from enforcing its codes or ordinances by
76 any other means.
77

78 Section 1-3. Code Enforcement Officials
79

80 The Village hereby establishes the following positions and offices for the provision of
81 code enforcement within the Village of Estero:

82 “Code Enforcement Officer” means any designated employee or agent of the Village
83 whose duty it is to enforce the codes and ordinances of the Village and whose authority is
84 synonymous with designated code enforcement officers or code inspectors as provided in
85 Chapter 162, Florida Statutes.

86 “Special Magistrate” means any person designated by the Village Council to hold
87 hearings as provided by Section 162.03, Florida Statutes. Any such magistrate must be at a
88 minimum an attorney in good standing with the Florida Bar or retired judge or magistrate.
89
90
91

92 Section 1-4. Enforcement Procedure

- 93
- 94 1. Finding of Violation. Upon the finding of a code violation by Code Enforcement
- 95 Officer, the Officer shall have the authority to issue and prosecute notices of
- 96 violation, citations, summons or notices to appear as necessary and authorized as
- 97 provided by code and general law.
- 98 2. Venue. Except in civil actions to enforce Village codes and ordinances, or where a
- 99 citation or notice to appear requires a violator's appearance in county court, violators
- 100 shall appear before the Village's duly appointed code enforcement board or special
- 101 magistrate. The rules of procedure for any hearing before either a code enforcement
- 102 board or special magistrate shall be established by resolution of the Village Council.
- 103 3. Penalties. The issuance and determination of fines, costs, and liens amounts shall be
- 104 in the discretion of the code enforcement board or special magistrate as provided by
- 105 general law. The Village Council may, however, establish by Resolution a standard
- 106 fine schedule for the issuance of citations.
- 107

108 **Section 3. Amending Conflicting Provisions of Code.**

109

110 The following provisions of the Estero Code are deleted in their entirety and reserved

111 for future use as follows:

- 112 1. Chapter 1 – Administration, Article VI – Code Enforcement Board
- 113 2. Chapter 1 – Administration, Article XI, Public Nuisance Abatement
- 114 3. Land Development Code, Chapter 1 – General Provisions; Section 1-6
- 115
- 116 4. Land Development Code, Chapter 2, Article VII – Hearing Examiner
- 117

118 **Section 4. Codification.** The Village Council intends that this Ordinance be made part

119 of the Code of Laws and Ordinances, of the Village of Estero, Florida; and that sections of

120 this Ordinance can be renumbered or re-lettered to the appropriate word or phrase to

121 accomplish codification, and regardless of whether this Ordinance is ever codified, the

122 Ordinance can be renumbered or re-lettered and typographical errors and clarification of

123 ambiguous wording that do not affect the intent can be corrected with the authorization of the

124 Village Manager without the need for a public hearing.

125

126 **Section 5. Conflict with other Ordinances.** The provisions of this Article shall

127 supersede any provisions of existing ordinances in conflict herewith to the extent of said

128 conflict.

129

130 **Section 6. Severability.** In the event that any portion of this ordinance is for any reason

131 held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be

132 deemed a separate, distinct and independent provision, and such holding shall not affect the

133 validity of the remaining portions of this ordinance.

134

135 **Section 7. Effective Date.** This Ordinance shall take effect immediately upon its

136 adoption by the Village Council.

137

138 PASSED on first reading this 23rd day of September, 2015.

139

140 PASSED AND ADOPTED BY THE VILLAGE COUNCIL of the Village of
141 Estero, Florida this 7th day of October, 2015.

142

143 Attest:

VILLAGE OF ESTERO, FLORIDA

144

145

146 By: Kathy Hall

By: Nicholas Batos

147 Kathy Hall, MMC

Nicholas Batos

148 Village Clerk

Mayor

149

150

151 Reviewed for legal sufficiency:

152

153

154 By: Burt H. Saunders

155 Burt Saunders, Esq.

156 Village Attorney

157

158 Vote: AYE NAY

159 Mayor Batos ✓

160 Vice Mayor Levitan ✓

161 Councilmember Boesch Excused Absence

162 Councilmember Brown ✓

163 Councilmember Errington ✓

164 Councilmember Ribble ✓

165 Councilmember Wilson ✓